

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSEPH A. JIMICUM, JR.,)	
)	CASE NO. C10-1609-RSL-MAT
Petitioner,)	(CR07-0303-RSL)
)	
v.)	
)	REPORT AND RECOMMENDATION
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

INTRODUCTION AND SUMMARY CONCLUSION

Petitioner, proceeding with counsel, filed a Motion to Dismiss with Prejudice the 2255 Petition and to Strike Evidentiary Hearing. (Dkt. 15.) Counsel for petitioner attests that, after his investigation into this case and following extensive discussions with petitioner, petitioner agreed that a motion to dismiss the petition and strike the evidentiary hearing was appropriate. (Dkt. 15 at 2.) Petitioner signed a Declaration of Petitioner Withdrawing 2255 Petition reflecting his decisions to forgo the evidentiary hearing and to withdraw his petition. (*Id.*, Ex. A.) Counsel for petitioner attests that respondent was informed of the decision and does not

01 oppose the motion. (*Id.* at 1.)

02 Given the above, the Court recommends that this matter be DISMISSED with prejudice.
03 The Court further concludes that petitioner is not entitled to a certificate of appealability with
04 respect to his claims. *See* 28 U.S.C. § 2253(c)(2). A proposed Order of Dismissal
05 accompanies this Report and Recommendation.

06 DATED this 12th day of May, 2011.

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09 Mary Alice Theiler
10 United States Magistrate Judge
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